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Message Text

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62
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O 192345Z AUG 76
FM USMISSION USUN NY
TO SECSTATE WASHDC IMMEDIATE 8765

C O N F I D E N T I A L USUN 3338

STADIS//////////////////////////////

EXDIS

FOR D/LOS AMB. BREWSTER ONLY FROM MR. OXMAN
FROM US LOS DEL

E.O. 11652: XGDS-3
TAGS:PLOS
SUBJECT: LOS: COMMITTEE III

1. MARINE SCIENTIFIC RESEARCH
A. PROPOSAL
ACCEPT THE QUALIFIED CONSENT CONCEPT STRUCTURE OF
THE PRESENT REVISED TEXT. THIS WOULD ACCEPT THAT
CONSENT BE REQUIRED FOR ALL PROJECTS BUT COULD BE WITH-
HELD ONLY UNDER CERTAIN CRITERIA.
B. DISCUSSION
WE WOULD TRADE OUR ACCEPTANCE OF THE ABOVE FOR THE
FOLLOWING:
(1) AGREEMENT ON A LIST OF CRITERIA FOR DENYING
CONSENT THAT IS CLEAR, OBJECTIVE, AND AN EXCLUSIVE
LIST;
(2) RETENTION OF THE TACIT CONSENT CONCEPT; AND
(3) APPLICATION OF COMPULSORY DISPUTE SETTLEMENT
PROCEDURES.

2. THE LIKELIHOOD OF OUR BEING ABLE TO AVOID THE OVERALL
CONSENT CONCEPT IS VERY SMALL BECAUSE OF STRONG DEVELOPING
COUNTRY OPPOSITION TO OUR POSITION, CHAIRMAN YANKOV'S
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ATTITUDE AGAINST OUR POSITION, AND THE USSR WILLINGNESS TO

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ACCEPT ANYTHING INCLUDING A TOTAL CONSENT REGIME WITH
NO QUALIFICATIONS OR RESTRICTIONS. THE SUBSTANTIVE RESULT
WOULD PRODUCE CONSIDERABLE LIMITATIONS ON THE RIGHT TO
CONDUCT RESEARCH AND WOULD ALLOW A COASTAL STATE TO STOP
ALMOST ANY PROJECT IF IT WISHED TO PUSH THE INTERPRETATION
OF THE REGIME OF ITS LIMIT. ON THE OTHER HAND, IT WOULD
BE CLEARLY BETTER THAN NO TREATY, SINCE THAT WOULD RESULT, IN
PRACTICE, IN A TOTAL CONSENT REGIME THROUGH UNILATERAL ACTION.
THE MAJOR DISADVANTAGE IS THAT THE U.S. SCIENTIFIC COMMUNITY
WILL BE UNHAPPY AND MAY CARRY THROUGH ON ITS THREAT TO
OPPOSE RATIFICATION OF THE TREATY.

C. AGENCY POSITIONS

THE NSF REPRESENTATIVE ON THE DELEGATION ACCEPTS
THE APPROACH AND FEELS HE CAN CONVINCE NSF. DOD WILL BE
VERY RELUCTANT TO MAKE THISCONCESSION, BUT WE MIGHT
PERSUADE THEM TO ACCEPT IT IN THE CONTEXT OF A
SATISFACTORY SETTLEMENT ON THE STATUS OF THE ECONOMIC
ZONE. WE WILL UNDER ANY SCIENTIFIC RESEARCH REGIME NEED
TO SEND DOD A LETTER OF INTERPRETATION THAT CLASSIFIED
MILITARY INFORMATION-GATHERING ACTIVITIES ARE NOT
SCIENTIFIC RESEARCH UNDER THE TREATY, SINCE--CONSENT
ASIDE--WE CANNOT AGREE EVEN TO GIVE NOTICE, ALLOW
PARTICIPATION, OR PUBLISH RESULTS. COMMERCE WILL BE UN-
#-006, BUT WILL PROBABLY ACCEPT IT.

D. NEGOTIABILITY

THE COMMITTEE DISCUSSION ON SCIENTIFIC RESEARCH
WILL END TOMORROW. CHAIRMAN YANKOV WILL SET UP A VERY
SMALL GROUP TO NEGOTIATE ON THIS ISSUE(PROBABLY ABOUT
TEN COUNTRIES). THE GENERAL CONSENT CONCEPT IS THE MOST
IMPORTANT PART OF THE NEGOTIATION FOR MANY OF THE DEVELOP-
ING COUNTRIES. IF THEY ARE WILLING IN FACT TO TRY TO FIND
A COMPROMISE, THEN THEY SHOULD BE WILLING TO MAKE THIS
TYPE OF TRADE. HOWEVER, FOR SEVERAL REASONS, INCLUDING THE
LACK OF AUTHORITY OF MANY THIRD COMMITTEE REPRESENTATIVES,
IT MAY NOT BE POSSIBLE TO NEGOTIATE THIS PACKAGE IN THE
THIRD COMMITTEE. CONSEQUENTLY, EITHER A HIGHER LEVEL
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NEGOTIATION OR YOUR INTERVENTION MAY BE REQUIRED.
BENNETT

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